

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Tessa Yesselman	Team: Squad #4	CCRB Case #: 201906804	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 07/18/2019 8:05 PM	Location of Incident: [REDACTED]	Precinct: 73	18 Mo. SOL 1/18/2021	EO SOL 9/4/2021	
Date/Time CV Reported Thu, 07/18/2019 8:09 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 08/01/2019 11:05 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Anthony Sica	16031	953402	SRG 3
2. POM Dennis Samuels	15871	957128	SRG 3

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Andrzej Babiuch	15395	946764	SRG 3
2. POM Joshua Konen	00966	936882	SRG 3
3. POF Ileana Feliz	25565	950538	SRG 3
4. POM Dominick Scotto	16621	958063	SRG 3
5. SGT Daniel Comas	707	943098	SRG 3

Officer(s)	Allegation	Investigator Recommendation
A.POM Dennis Samuels	Force: At § 87(2)(b) [REDACTED] in Brooklyn, Police Officer Dennis Samuels struck § 87(2)(b) [REDACTED] with a vehicle.	[REDACTED]
B.POM Anthony Sica	Abuse: En route to the 73rd Precinct stationhouse, Police Officer Anthony Sica did not obtain medical treatment for § 87(2)(b) [REDACTED]	[REDACTED]

Case Summary

On July 18, 2019, § 87(2)(b) filed this complaint with IAB (log no. 28676) **(01 Board Review)**. § 87(2)(b) filed the complaint on behalf of Ka-Reif § 87(2)(b) does not know § 87(2)(b) was not witness to the FADO allegations in this case. On August 1, 2019, the CCRB received this case.

On July 18, 2019, at approximately 8:05 PM, § 87(2)(b) was riding an electronic scooter in the area of § 87(2)(b) in Brooklyn. PO Samuels allegedly struck § 87(2)(b) with a police vehicle (**Allegation A: Force**, § 87(2)(g) PO Sica allegedly failed to provide § 87(2)(b) with medical attention (**Allegation B: Abuse of Authority**, § 87(2)(g)).

§ 87(2)(b) was arrested and charged with reckless endangerment, fleeing from an officer in a motor vehicle, and six additional VTL charges **(10 Board Review)**.

The CCRB obtained cell phone video **(13 Board Review)** and BWC footage of this incident **(03 Board Review, 04 Board Review)**. The cell phone video does not capture the FADO allegation.

Findings and Recommendations

- **Allegation (A) Force: At § 87(2)(b) in Brooklyn, Police Officer Dennis Samuels struck § 87(2)(b) with a vehicle.**

§ 87(2)(b) **(05 Board Review)** stated that on July 18, 2019, at approximately 8:05 PM, he was riding a black motorized scooter in the vicinity of § 87(2)(b) in Brooklyn. § 87(2)(b) did not know who the scooter belonged to and often saw various people from his neighborhood riding the scooter. The scooter had no license plates. § 87(2)(b) had been riding the scooter for approximately two minutes when he noticed a marked police car directly behind him. The marked car was not using lights or sirens. § 87(2)(b) did not know how fast the marked car was moving but it was traveling quickly. § 87(2)(b) did not know how fast he was traveling on the scooter. § 87(2)(b) reversed direction, drove on to the sidewalk, and started riding towards § 87(2)(b). The sidewalk was crowded, and § 87(2)(b) had to weave through people to avoid hitting them. The marked car continued following § 87(2)(b) started to turn right to enter the walkway next to § 87(2)(b) towards § 87(2)(b). The marked car drove on to the sidewalk behind § 87(2)(b) and rear-ended § 87(2)(b)'s scooter. The marked car had been following him for less than thirty seconds before it struck the rear of the scooter. The marked car made contact with the rear wheel and gas tank on the scooter and caused § 87(2)(b) to fall forward on to the fence in front of § 87(2)(b). § 87(2)(b) did not fall to the ground. § 87(2)(b) hit the center of his forehead against the fence. § 87(2)(b) did not sustain any visible injury as a result of this but stated that the area felt tender in the days following this incident. The marked car did not make contact with § 87(2)(b)'s body.

§ 87(2)(b) alleged that the gas tank on the scooter was damaged as a result of being struck by the marked car. This allegation was not pleaded because the investigation was unable to identify the true owner of the scooter.

§ 87(2)(b) independently sought medical attention at § 87(2)(b) on July 20, 2019 **(06 Board Review)**. § 87(2)(b) complained of being struck by a police vehicle while riding a motorized scooter, and complained of pain to his chest, back, shoulder, and thigh on his right side. § 87(2)(b) stated that he was on a scooter when police cornered him and pushed him into a black steel fence. He was in custody for approximately 24 hours while ownership of the bike

was determined. § 87(2)(b) was given Advil and diagnosed with a mid-back strain.

This complaint was filed by § 87(2)(b). In his initial complaint, § 87(2)(b) stated that he saw the police vehicle strike § 87(2)(b). When the CCRB contacted § 87(2)(b) to obtain more details (**02 Board Review**), § 87(2)(b) stated that he was in his apartment, located at § 87(2)(b) and heard a loud commotion. § 87(2)(b) looked out the window and saw § 87(2)(b) interacting with PO Samuels and PO Sica. § 87(2)(b) did not see § 87(2)(b) while he was riding the scooter and did not see the police vehicle strike § 87(2)(b).

PO Samuels (**08 Board Review**) and PO Sica (**09 Board Review**) both stated that at 7:15 PM, Sergeant § 87(2)(b) Comas told them that he had observed a Black male wearing a white t-shirt and gray sweatpants operating a black Yamaha scooter with no plates recklessly on the grounds of the § 87(2)(b). At 7:50 PM, PO Samuels and PO Sica saw a person, later known to them as § 87(2)(b) matching the description on a black Yamaha scooter at the location provided by Sgt. Comas. PO Samuels was driving the marked car, activated its lights and sirens, and pulled behind § 87(2)(b) on the scooter. PO Samuels maintained a distance of one car length or fifteen feet between them. PO Sica went over the vehicle loudspeaker and told § 87(2)(b) to pull over. PO Sica and PO Samuels both stated that § 87(2)(b) was traveling at a high rate of speed and turned on to a pedestrian walkway in front of § 87(2)(b).

PO Samuels (**08 Board Review**) stated that he turned on to the walkway after § 87(2)(b) swerved to avoid hitting pedestrians, and while he was swerving, he made a sharp turn and fell off of the scooter. PO Samuels pulled up behind the scooter approximately five seconds after § 87(2)(b) had fallen off. PO Samuels maintained a speed of approximately 20 MPH while pursuing § 87(2)(b). PO Samuels did not know how fast § 87(2)(b) was traveling. PO Samuels maintained a vehicle length distance between the police vehicle and § 87(2)(b). PO Samuels and PO Sica both exited the vehicle immediately. § 87(2)(b) was standing by the time they got out. PO Samuels did not strike § 87(2)(b) with his vehicle and did not remember if the police vehicle hit the scooter after § 87(2)(b). Sica had already fallen off.

PO Sica (**09 Board Review**) stated that § 87(2)(b) made a sharp turn into the § 87(2)(b) in the area of § 87(2)(b). There were pedestrians walking on the sidewalk where § 87(2)(b) made the turn, including small children, because it was a residential area and they were near a park and basketball court. § 87(2)(b) had to turn sharply again, to avoid striking a pedestrian, and lost control of the scooter. § 87(2)(b) fell off the scooter and to the ground. PO Samuels did not strike § 87(2)(b) with the vehicle and did not otherwise strike the scooter with the vehicle. PO Samuels and PO Sica had been pursuing § 87(2)(b) for under one minute.

The investigation was unable to obtain NYCHA camera footage of this incident because the cameras at the location were not functioning at the time of this incident. The investigation obtained cell phone video, but the footage begins after the allegation that PO Samuels struck § 87(2)(b) with the police vehicle. The investigation also obtained BWC footage from PO Samuels and PO Sica.

The audio on PO Sica's BWC begins at 1:00 (**03 Board Review**). PO Sica wore his BWC on the center of his chest, so the video is shot from that vantage point. The video shows PO Samuels and PO Sica as they pursue § 87(2)(b) from inside their vehicle, but § 87(2)(b) is not visible. At :00 when the footage begins, PO Sica is seated in his vehicle in the front passenger seat. At :11 the vehicle makes a right turn. At :28 the vehicle makes another right turn and appears to accelerate in speed. The vehicle drives straight until :48. At :49 PO Sica exits the vehicle. There are two officers on foot at the same location, pictured on the right of the screen. These are unidentified housing officers. At :51 § 87(2)(b) is pictured. § 87(2)(b) is standing in front of a black fence. There is a scooter on the

ground by his feet, between the police vehicle and the fence. § 87(2)(b) is standing and facing towards PO Sica.

PO Samuels' BWC (**04 Board Review**) does not start until PO Samuels and PO Sica are handcuffing § 87(2)(b) after the alleged FADO occurred.

§ 87(2)(b), § 87(2)(g)

- **Allegation (B) Abuse of Authority: Allegation (B) Abuse of Authority: En route to the 73rd Precinct stationhouse, Police Officer Anthony Sica did not obtain medical treatment for § 87(2)(b)**

§ 87(2)(b) (**05 Board Review**) stated that he asked PO Sica for medical attention outside of § 87(2)(b) in the immediate aftermath of the incident and in the vehicle while PO Samuels and PO Sica were transporting him. PO Sica told § 87(2)(b) while in transport that he would call an ambulance for § 87(2)(b) when they got to the stationhouse. PO Sica did not call an ambulance and § 87(2)(b) did not ask PO Sica for medical attention again while at the stationhouse because he did not want to elongate his time in custody.

As discussed in Allegation A, § 87(2)(b) independently sought medical attention on July 20, 2019, and was diagnosed with a mild back strain (**06 Board Review**).

PO Sica (**09 Board Review**) stated that he did not hear § 87(2)(b) ask him for medical attention while at the incident location. § 87(2)(b) asked PO Sica for medical attention while en route to the command. PO Sica was seated in the rear seat with § 87(2)(b) and PO Samuels was the operator of the vehicle. PO Sica told § 87(2)(b) that he would call an ambulance for him when they reached the stationhouse. PO Sica asked § 87(2)(b) if he still wanted medical attention when they reached the stationhouse and § 87(2)(b) declined. PO Sica did not recall at what point § 87(2)(b) declined medical attention during arrest processing. PO Sica prepared a Medical Treatment of Prisoner Report (MTPR) showing that § 87(2)(b) declined medical attention. PO Sica did not observe any injury to § 87(2)(b) and would have called an ambulance for § 87(2)(b) if he had confirmed he wanted one, or if he had observed § 87(2)(b) to have any injuries or be in pain, even if § 87(2)(b) declined.

PO Samuels (**08 Board Review**) did not hear § 87(2)(b) request medical attention at any point during the incident.

At 11:30 of PO Sica's BWC (**03 Board Review**), PO Sica tells § 87(2)(b) that he is being recorded. PO Sica and § 87(2)(b) are seated in the rear of a police vehicle. PO Samuels is the operator of the vehicle. At 11:33 § 87(2)(b) responds, "I need to go to the hospital." PO Sica responds, "I'll call you an ambulance once we get inside, okay?" At 17:35, they arrive at the SRG 3 command. PO Sica and PO Samuels walk § 87(2)(b) inside. PO Sica places his body worn camera on the front desk, facing § 87(2)(b). PO Sica begins arrest processing administrative work. § 87(2)(b) is not heard asking for medical attention but does request a phone call. § 87(2)(b) is lodged in the holding cells at 26:00. There is no further conversation about medical attention.

PO Samuels' BWC (**04 Board Review**) does not contain any footage with conversation about medical attention.

The MTPR (07 Board Review) prepared by PO Sica indicates that § 87(2)(b) declined medical attention in the field, at the command, and in the court section.

§ 87(2)(b), § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been party (12 Board Review).
- PO Sica has been a member of service for years and has been subject to five cases and nine allegations with no substantiations. PO Sica's CCRB history does not reflect a pattern pertinent to this case.
- PO Samuels has been a member of service for years and has been subject to two previous cases and three allegations with no substantiations. PO Samuels' CCRB history does not reflect a pattern pertinent to this case.

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- As of the time of the writing of this report, results for a FOIL for a Notice of Claim sent to the NYC Comptroller's Office is pending.

§ 87(2)(b)

Squad No.: 4

Investigator:	<u>Tessa Yesselman</u>	<u>SI Tessa Yesselman</u>	<u>12/03/2020</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Raquel Velasquez</u>	<u>IM Raquel Velasquez</u>	<u>12/08/2020</u>
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date